Établissement et Révision des Constitutions en Amérique et en Europe. Par CHARLES BORGEAUD. Paris, Thorin et Fils, 1893.—vi, 419 pp.

This work was crowned with the Rossi prize by the Faculty of Law of Paris in the year 1892. It is a very painstaking and conscientious treatise upon the origin, character and development of written constitutions. While it is in most respects also impartial, it manifests at some points rather strongly the sympathy of the author for France. For example, he writes in his opening sentence: "The conception, which may be termed the French conception, of a codified public law, distinctly differentiated from ordinary legislation, is the fundamental principle of the modern state." It is rather difficult for an American to acknowledge the claim that this conception is French, since it was both taught and realized in America long before it was in France. In fact the author himself confesses, in his third sentence, that the idea of a written constitution dates from much further back than 1789 and was not born in France, and cites as the first instance of its realization the Cromwellian "Instrument." Why, then, should he begin by calling it French? I can imagine no other cause than an unscientific prejudice in favor of France.

The author distinguishes constitutions into those which have been granted, *ex parte*, from princes to subjects, those which may be regarded as compacts between princes and subjects, and those which rest solely upon the people. He undertakes to show that the movement of history is towards the last of these forms, as the democratic spirit grows stronger and more commanding. He also indicates that the movement of history is towards the exercise of the constituent power by the people immediately, instead of through their governmental representative, or even through convention delegates; and his conclusion is an argument for changing the present method of revising the French constitution by the members of the two legislative houses in joint or national assembly, to the method of the *plébiscite*. I suppose he would retain the present national assembly as the body for working out the propositions of amendment or revision, which should be subjected to the popular vote. He does not propose any direct popular initiative of such propositions.

The author is not unmindful of the disastrous experiences which France has had with the *plébiscite* in the forming, amending and revising of constitutions, but he thinks that the French people have now reached a stage of political development such as would preserve

them against the repetition of these experiences and would secure the advantages of the *plébiscite* without any of those dangers which usually attend its employment in a crude state of political society. This seems to me a decidedly optimistic view of French conditions.

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The Judicial Interpretation by the United States Courts of the Act of Congress relating to the Tariff. By WILLIAM WILKINS CARR, of the Philadelphia Bar. Philadelphia, P. and J. W. Johnson & Co., 1894. — vii, 631 pp.

The main value of Mr. Carr's book is in its collection of the decisions of the United States courts upon the present tariff and customs administrative acts. The book embraces not only these decisions, but also most of the federal decisions since the formation of the Union relative to this matter of tariffs. As Mr. Carr points out in his preface,

> the decision of a court upon a tariff act does not cease to be of value after a modifying act has been enacted; and the terms of the earlier legislation and judicial decisions thereon must be considered in order to determine the Congressional intent of a later act.

Such decisions are also valuable as precedents in cases of a similar character which may come up under later acts; but apart from the later decisions, it must be confessed that Mr. Carr has contributed very little to our knowledge of the law upon the subject. Mr. Elmes's excellent work upon *The Law of the Customs* must remain still the standard treatise on this little-understood branch of the law.

The great fault of Mr. Carr's work is that it is almost entirely lacking in any attempt at classification. I know of no book upon the law that is more deficient in this particular. The work is almost impossible to read, though it is conceivable that by a judicious use of the index a person in search of precedents might find what he wishes. Chapter follows chapter without any particular reason for the sequence, while the same subject is treated here and there at haphazard in different parts of the book. In many cases it would appear as if the author's work had been little more than to take the *syllabi* of the cases to be found in the digests, and insert them in the order in which he happened upon them. At the same time, the book is more useful as a digest than a digest itself, since it is special in character, and so renders the finding of a case more simple. It must be admitted, also, that it is the only work in which the new cases are to be found.

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